

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION

MARCO V. HARRISON, JR. PLAINTIFF

V. NO. 1:23-cv-00141-GHD-DAS

JESUS M. IRIARTE; TD AUTO FINANCE DEFENDANTS

**CONSOLIDATED WITH**

MARCO V. HARRISON, JR. PLAINTIFF

V. NO. 1:24-cv-18-GHD-DAS

JESUS IRIARTE; TWENTY4SEVEN RECOVERY DEFENDANTS

**ORDER APPROVING AND ADOPTING REPORT AND RECOMMENDATION**

On consideration of the file and records in this action, the Court finds that the Report and Recommendation [19, 22] of the United States Magistrate Judge dated August 6, 2024, regarding the dismissal with prejudice of these *pro se* actions, with the exception of the Plaintiff's claims for Truth In Lending Act violations against TD Auto Finance/TD Bank N.A. in Case No. 1:23CV141, for failure to state a plausible claim, was on that date duly served upon the Plaintiff; and that the Plaintiff's objections [25, 29] thereto have been filed and reviewed by the Court. The Magistrate Judge issued the Report and Recommendation after reviewing the Plaintiff's Complaints pursuant to 28 U.S.C. § 1915(e)(2) because the Plaintiff is proceeding *in forma pauperis* [33].

For the reasons aptly set forth in the Magistrate Judge's Report and Recommendation, the Court is of the opinion that the Report and Recommendation should be approved and adopted as the opinion of the Court, as further explained below. The Plaintiff's Complaints simply do not state a plausible claim for relief and are frivolous, with the exception of the Plaintiff's claims for Truth In Lending Act violations against TD Auto Finance/TD Bank N.A. The Court shall therefore

dismiss the Plaintiff's claims with prejudice, except as noted above. See, e.g., *Neitzke v. Williams*, 490 U.S. 319, 327 (1989); *Wirsche v. Bank of Am., N.A.*, No. 7:13-CV-528, 2013 WL 6564657, at \*2 (S.D. Tex. Dec. 13, 2013); *Hennis v. Trustmark Bank*, No. 2:10CV20, 2010 WL 1904860, at \*5 (S.D. Miss. May 10, 2010); *Wood v. United States*, 161 Fed. Cl. 30, 33 (2022).

The Court therefore hereby **ORDERS** the following:

- 1) the Report and Recommendation [19, 22] of the United States Magistrate Judge dated August 6, 2024, is hereby approved and adopted as the opinion of the Court;
- 2) the Plaintiff's claims in Civil Action No. 1:23CV141, with the exception of the Plaintiff's claims for Truth In Lending Act violations against TD Auto Finance/TD Bank N.A., are DISMISSED WITH PREJUDICE pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure;
- 3) the Plaintiff SHALL amend his Complaint in Civil Action No. 1:23CV141 within FOURTEEN days of today's date to restate his Truth In Lending Act claims against TD Auto Finance/TD Bank N.A., and failure to timely so amend shall subject those claims to dismissal by the Court;
- 4) the Plaintiff's motion to proceed *in forma pauperis* [2] in Civil Action No. 1:23CV141 is GRANTED, as set forth by the assigned Magistrate Judge in the Court's August 29, 2024, Order [27];
- 5) the remaining pending motions in Civil Action No. 1:23CV141 [13, 18, 19, 20, 21, 23, 24, 25] are DENIED AS MOOT;
- 6) the Plaintiff's claims in Civil Action No. 1:24CV18 are DISMISSED WITH PREJUDICE pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, all pending motions in that case are DENIED AS MOOT, and that case is CLOSED.

SO ORDERED, this, the 30<sup>th</sup> day of September, 2024.



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SENIOR U.S. DISTRICT JUDGE